

ARTICLE IV
Sections 4-10-4-140

GENERAL REGULATIONS

Section 4-10 – Non-Conforming Buildings, Structures or Uses. A permitted use located in a building which violates the side, rear or front yard requirements, or the minimum lot size requirements, shall be permitted to expand, or be reconstructed, or in all other ways be treated as a conforming use as long as such changes do not further violate the side, rear, front yard, or parking requirements.

1. Continuation. Any lawful use of a building or structure, or land existing at the effective date of this ordinance, and located in a zoning district in which it may not be permitted as new use under the provisions of this ordinance may be continued.
2. Change in Use. No non-conforming use of a building, structure, or land shall be changed to another use which is substantially different from the former non-conforming use, EXCEPT one which is permitted by this ordinance in the district in which such use is located. Whenever a non-conforming use of land, structure, or building has been changed to a conforming use, it shall not thereafter be changed to non-conforming use.
3. Alteration and extension. Preexisting non-conforming structures or uses which were lawful uses at the time they were constructed or begun may be extended or altered provided that any extension or alteration shall in excess of 10% shall require a special permit from the Board of Appeals. Such extension or alteration shall be permitted by the Board of Appeals provided that the finding is made by said Board that such alteration will not be substantially more detrimental than the existing non-conforming use or structure.

Such finding shall be in the form of a special permit and such special permit shall conform to any subsequent amendments of this ordinance or bylaw unless the use or construction is commenced with a period of nor more than six months after the issuance of the permit and in the case of construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

4. Abandonment. Any non-conforming use of land, buildings or structures voluntarily abandoned for a period of two (2) years or more shall not thereafter be re-established.
5. Restoration of Damaged Buildings. A non-conforming use or building which has been partially damaged by fire, explosion, flood, fire, or other phenomenon, or legally condemned, may be restored and continued, PROVIDED, however the established cost of such restoration does not exceed eighty (80) percent of the fair

market value of the building, based on replacement cost immediately prior to such damage, and that the building restoration shall be commenced within twelve (12) months from the date the building was partially destroyed or condemned. (11/20/90)

6. Agricultural Exemption. Buildings, structures, or land used primarily for agriculture, horticulture, or floriculture are exempt from paragraphs 3 and 4 of this section.
7. Family Day Care Homes. The lawful use of a residence or other building as a family day care home as of the date of passage of this ordinance which is licensed as of that date in accordance with the licensing requirements of Massachusetts General Laws Chap. 28A, Sec. 10 and which is located in a zoning district in which it is not allowed without the grant of a special permit be continued. The use of a residence or other building as a family day care home which is discontinued for a period of two (2) or more years shall be deemed an abandonment of the rights granted hereunder. 9/18/93

Section 4-20 – Non-Conforming Residential Lots. Any lot at the effective date of this ordinance, that does not meet the area and/or frontage requirements of this ordinance but complies with any minimum area, frontage, width and depth requirements in force at the time the lot was lawfully laid out by plan or deed, duly recorded, or any lot shown on a plan endorsed with the words “Approval under the Subdivision Control Law not required” or words of similar import. MAY BE BUILT UPON for residential under the provisions of this ordinance and meets the following additional conditions:

1. A lot in single and Separate Ownership. In the case of a lot held in single and separate ownership at the time of enactment of this ordinance and subsequent amendments thereto, a lot with an area of five thousand (5,000) square feet or more and a frontage of fifty (50) feet or more, may be built upon.
2. Deleted in it’s entirety: 12/15/88
3. **Common Ownership of Two or More Lots.** In the case of two or more nonconforming lots held in common ownership and laid out and recorded in the Registry of Deeds prior to the enactment of this ordinance, the lot lines must be revised to conform with the minimum lot size and frontage enacted as part of this ordinance or subsequent amendments thereto.

Remaining paragraph deleted as of 12/15/88.

4. Deleted in it’s entirety: 12/15/88

Section 4-30 – Accessory Uses and Accessory Buildings.

1. (a) Deleted in its entirety and replaced with the following (9-18-03)

An accessory building which is detached and which has a foundation and is not part of the main building may be built in the rear or side yard area, provided that not more than twenty-five (25) percent of the required rear yard is occupied by accessory buildings and provided that total permitted lot coverage allowances are not exceeded. An accessory building shall not be located nearer than ten (10) feet to the principal building. The minimum front yard setback for detached accessory buildings shall be the same as that required for a principal structure in that district. The minimum side and rear yard setback for detached accessory buildings shall be at least equal to that of the structure's height, but do not have to exceed the minimum permitted setbacks for principal structures.

Accessory buildings attached to the principal building shall be considered an integral part of the principal building and as such shall be subject to side and rear yard requirements applicable to the principal building.

(b) Deleted in its entirety and replaced with the following: (9-18-03)

Subject to the foregoing except for the requirement of a foundation, one may also erect an accessory shed or sheds. An accessory shed is defined as a slight structure built for storage of personal property, other than automobiles or trucks, without a foundation. Structures for storage of automobiles or trucks are subject to the requirements of Article IV Section 4-30-(2) were applicable. One may have an accessory shed or sheds provided that any shed in excess of 150 square feet has a foundation or has an adequate tie down system to prevent uplift, no more than 25% of rear yard area is occupied by shed or sheds and the height of the shed or sheds does not exceed the height of 12 feet.

2. Garage or storage space for private automobiles is an accessory use in a residence district. Off-Street automobile storage shall be provided in the amount of three (3) spaces with each single family dwelling, and two (2) spaces per family in a two family unit, two and two tenths (2.2) spaces per unit in a Residence C zoned multi-family dwelling and two and a half (2.5) spaces per unit in a garden apartment complex.
 - a. **Rural Residential and Residence A District.** Private garage for up to three (3) automobiles not nearer than five (5) feet to any side or rear lot line, except as provided in paragraph 1 above, nor nearer to the front street line than the prescribed minimum setback distance of the respective districts. No automobiles shall be permitted in the seventy-five percent (75%) front yard area to be grassed or otherwise landscaped.
 - b. **Residence B, Residence C, and Residence C-1 Districts.** The same regulations as above, except that for multifamily or group dwellings, individuals garages for each family accommodate on the lot may be provided either as an integral part of the building or in an accessory building. Such a garage or group of garages must not be located nearer than ten (10) feet to any

side or rear lot line. This provision shall in no case be interpreted permitting the erection of community garages except on a lot occupied by a group dwelling.

3. No garage building may be used as a dwelling except that living quarters may be provided on the second floor of a private garage attached to a dwelling.
4. Deleted in its Entirety and replaced with (9-18-03)
An accessory building shall not exceed twenty-five (25) feet in height above the ground level, except such accessory building as may be used for barns and poultry houses in the Agricultural Areas.
5. Accessory uses of property and accessory buildings necessary in connection with scientific research or scientific development or related production, whether or not on the same parcel as activities permitted as a matter of right may be allowed by special permit issued by the Planning Board providing that this board finds that the proposed accessory use does not substantially derogate from the public.

Section 4-40 – Conversion of Dwelling to Two-Family or Multiple-Family Use.

The Board of Appeals may authorize, by special permit, the conversion of a dwelling to a two-family or multi-family dwelling, subject to the zoning district regulations and the following conditions:

1. Each dwelling unit shall be provided with a separate access not passing through the living area of any other dwelling unit.
2. No structural alteration or extension of the building exterior shall be made except as may be necessary for reasons of safety.
3. The Board of Appeals may prescribe such further conditions with respect to the conversion and use of buildings of property as it seems appropriate, such as but not restricted to a requirement to provide adequate on-site parking as required in Article VII, Section 7-10..
4. The converted building must comply with the Building Code.

Section 4-50 – Reduction of Lot. No lot or plot shall be so reduced that the area of the lot or plot, or the dimensions of the open spaces, shall be smaller than the zoning requirement of the district within which the parcel is located.

Section 4-60 – Vision Obstruction. On a corner lot in any Residential District no planting shall be placed or maintained, and no fence, building, wall or other structure other than necessary retaining walls, shall be constructed after the effective date of these regulations, if such planting or structure thereby obstructs vision at any point between a height of two and one-half (2 ½) feet and a height of ten (10) feet above the upper face of the nearest curb and within the triangular area bounded on two sides by the two street

lines, or by projection of such lines to their point of intersection, and on third side by a straight line connecting points on such street lines (or their projections) each of which points is twenty-five (25) feet distant from the point of intersection of the two street lines. The same vision obstruction restrictions apply for that portion of the corner lot's rear line from the street line for a distance equal to the abutters setback but in no case need this distance exceed twenty-five (25) feet. Poles, posts, guys for street lights and for other utility services, and tree trunks exclusive of leaves and branches, shall not be considered obstructions to vision within the meaning the this provision.

In any Residential District, a fence higher than eight (8) feet shall require a special permit by the Board of Appeals, subject to the general provisions prescribed in Article I, Section 1-50. The same requirement shall apply to such a fence in excess of eight (8) feet, located in any district, if said fence is located within ten (10) feet of the property line of a residential use. In the case of a front yard, no opaque fence shall be higher than three (3) feet.

Section 4-70 – Condominiums.

Intent. Condominiums as defined in Article II, Section 2-20.01 of this ordinance have certain characteristics in common, whether newly created or converted units. The conversion of rental to owner-occupied units is governed by laws of the Commonwealth. However, as all condominiums, by definition, have several common aspects, the following rules shall apply:

1. A condominium created in accordance with and subject to the provisions of General Laws, Chapter 183A, as the same may be amended from time to time, is permitted under this ordinance, provided that the same shall comply with Use, Area, Height, Off-Street Parking and other regulations of this ordinance for the District in which said condominium is located.
2. A copy of the Master Deed, as provided for in Chapter 183A, Section 8, of the Massachusetts General Laws, shall be submitted to the Planing Department of the City of Westfield, said Deed to contain a provision that when there is a change in the names of officers, directors or trustees of the corporation, trust or association formed to regulate and manage a condominium project, said change shall be submitted to the Planning Department and the Superintendent of Buildings of the City of Westfield within thirty (30) days of the change, and a further provision that the aforementioned requirements are for the benefit of the City of Westfield.

Section 4-80 – Swimming Pools. A swimming pool, as defined in Article II, shall comply with the following standards:

1. A pool shall not be nearer than eight (8) feet to any lot line or eight (8) feet to any dwelling.

2. All swimming pools shall be enclosed by a fence at least four (4) feet high, and of a type not readily climbed by children, and containing gates which cannot be readily opened by children; in the case of above ground pools, the requirements for a fence shall be waived if the owner has a removable ladder which is removed at all times when the swimming pool is not in use and providing the pool is forty eight (48) inches deep or more.
3. No in-ground swimming pool shall be located closer than ten (10) feet from a septic tanks, nor twenty (20) from septic system leaching fields.
4. The construction of all swimming pools must meet State standards.

Section 4-90 – Drug Paraphernalia. Any appliance designed specifically for use in the application or administration of drugs which are controlled by Massachusetts General Laws, Chapter 94C, shall not be displayed for sale to consumers nor for promotional purposes not shall such appliances be sold without a license from the City Council of the City of Westfield. This section shall apply to all Zoning Districts.

Section 4-100 – Dish Antennae on Residential Structures or Property. For the purpose of this ordinance, dish antennas shall refer to that concave, circular or ovaline antennae designed primarily to receive satellite transmissions usually, but not restricted to, television broadcasts.

1. Above ground mounting. Dish antennae mounted on the side or roof of a residential structure shall be located such that they are not viewable from the front yard.
2. Ground mounting. Dish antennae mounted on the ground are permitted only in the rear yard of a residential structure and in all other ways shall be considered an unattached, accessory structure.

Section 1510 – DELETED IN ITS ENTIRETY AND RESERVED FOR FUTURE USE (10-07-02)

Section 4-110 – Location of Liquor Establishment.

No permit shall be issued for the erection, enlargement or conversion of a structure utilized for the purpose of selling or service alcoholic beverages which is situated within five hundred (500) feet, measured by a direct line from entrance to entrance, of any lot used for a church or a public and/or parochial school primarily intended for the education of students in Grades K through 12, unless a special permit has been obtained from the Planning Board. Said permit shall be obtained from the Planning Board before

application is made for any other permit in connection with the proposed erection, enlargement or conversion. (02/15/90)

Section 4-120 – Prohibited Uses and Performance Standards. No use which is noxious or offensive be reason of odor, dust, smoke, gas, vibration, illumination or noise, or which constitutes a public hazard whether fire, explosion, or otherwise shall be permitted in any district. In determining whether a use is noxious, hazardous, or offensive, the following standards shall apply:

1. **Vibration:** No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond the lot line; nor shall any vibration produced exceed 0.002 peak measured at or beyond the lot line using either seismic or electronic vibration measuring equipment.
2. **– Deleted in its entirety (11/13/02)**
Reserved for future use.
3. **Air Pollution.** Atmospheric emissions of gaseous or particulate matter generated by any land use shall conform to then current regulations of the Massachusetts Division of Environmental Quality Engineering (hereinafter called DEQE). If the proposed land use shall be of a nature to arouse the concern of the Building Inspector and/or Planning Board may require that the applicant produce plans and specifications of detail sufficient for review by DEQE. Determination by DEQE that potential exists for emissions in excess of allowable limits shall be grounds for permit refusal.
4. **Nuisance Odors.** There shall be no emissions of toxic or noxious matter or objectionable odors of any kind in such quantity as to be readily detectable at any property line of the lot on which the use emitting the toxic or noxious material or odor is located. For the purpose of this section, toxic or noxious matter is any solid, liquid, or gaseous matter including, but not limited to gases, vapors, dusts, fumes, and mists, containing properties which by chemical or other means are:
 - a. Inherently harmful and likely to destroy life or impair health, or
 - b. Capable of causing injury to the well-being of persons or damage to property.
5. **Fire and Explosion.** All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety and fire fighting devices in accordance with the Westfield Fire Department requirements, and the then current requirements of the National Fire Prevention Council as interpreted by the Westfield Fire Chief.

6. Radioactive Materials. The handling of radioactive materials, the discharge of such materials into the air and water, and the disposal of radioactive wastes, shall be in conformance with the regulations of the Atomic Energy Commission as set forth in the Title 10, Chapter One, Part 20 – Standards for Protection Against Radiation, as amended and all applicable regulations of the State of Massachusetts.
7. Radioactive Liquid or Solid Wastes. There shall be no discharge at any point into public or private sewage disposal system or stream, or into the ground, of any liquid or solid materials except in accordance with the regulations of the City of Westfield Health Department and the Mass Divisions of Environmental Quality Engineering.
8. Electromagnetic Radiation. The following standard shall apply:

It shall be unlawful to operate, cause to be operated or received, any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, or any other use directly or indirectly associated with these purposes which are in conflict with the standards of the Federal Communications Commission regarding such sources of electromagnetic radiation.
9. Heat and Glare.
 - a. Except for approved exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building. Glare shall be shielded in such a way that it will not be visible from other lots or public ways.
 - b. Exterior lighting, including but not necessarily limited to lighting of exterior walls of buildings from an external light source, lighting of parking areas, and lighting of walks and drives shall be done in such a manner to direct light away from adjacent lots and public ways.
10. Insects and Rodents. All materials, including wastes, and all ground and buildings shall be kept in a manner which will not attract or aid the propagation of insects or rodents creating a health hazard.
11. Wastes and Refuse. No waste material or refuse shall be dumped upon, or permitted to remain upon, any part of the lot outside of buildings constructed thereon. Waste material or refuse stored outside buildings shall be placed in completed enclosed containers as per the City of Westfield Hazardous Waste and Underground Fuel Storage Ordinance.

12. Water Pollution. The use of and discharge of substances into lakes, streams or similar water bodies shall not violate the rules and regulations of the Westfield Conservation Commission or the standards of the Mass Division of Environmental Engineering Quality.

Section 4-130 – Junk, Waste and Inoperative Motor Vehicles.

1. Accessory Use. Accessory use as set forth in any of the previous zoning districts shall in no way be construed so as to permit the accumulation of waste or junk as defined in Article II, Section 2-20.01 the storage of junked, dismantled or wrecked motor vehicles as defined in Article II, Section 2-20.01, or the storage of articles or equipment no longer used as a manufactured article but which may be converted into some other product by means of some manufacturing process.
2. Inoperative, wrecked or unregistered motor vehicles. Unless duly permitted in accordance with all applicable laws, ordinances and regulations, it shall be unlawful on any lot for any person to park or store out-of-doors for more than thirty (30) days one ore more than one wrecked, inoperative or unregistered motor vehicle or the parts of any such motor vehicles. Violations shall be punished by non-criminal disposition as provided in Code of Ordinances, City of Westfield, Chapter 1, section 1-9.1 or enjoined pursuant to Chapter 1, section 1-9. Each day beyond thirty (30) days that such vehicles of such vehicles, or parts thereof remain parked or stored out-of-doors shall constitute a separate offense. (07-10-02)
- 3, Dumping or Garbage, Rubbish or other Refuse. No person shall dump garbage, rubbish or other refuse in any place or maintain as a dumping ground for garbage, rubbish or other refuse any place, UNLESS such place has been approved with a special permit by the City Council and UNLESS such place has been approved by the Westfield Health Department. This shall not apply to those persons who wish to scientifically maintain compost for their own use.

SECTION 4-140 – EXEMPTED USES.

This ordinance shall not prohibit the development of any land in any district for use for educational or for religious purposes, nor shall it prohibit its use as a municipal facility nor shall it prohibit the use of land for the primary purpose of agriculture, horticulture, floriculture or viticulture. Except as may be provided elsewhere in this ordinance, all such uses are subject to the dimensional, density, signage and parking regulations that apply to the district within which such use is located, as well as to the General Regulations specified within Article IV. In addition, such uses which will exceed any of the following criteria shall be subject to Site Plan Approval under Article VI: 1) the use

generates a flow of over 20 vehicle trips/per/day. 2) zoning requires 5 or more parking spaces, or 3) the use generates the need for 5 or more parking spaces. (04-18-02)